



PTO/SB/26 (10-92)

TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING
REJECTION OVER A PRIOR PATENTDocket Number (Optional)
381NP/48224CO

In re Application of: Fumio TAJIMA et al.
Application No.: 10/091,514
Filed: March 7, 2002
For: ROTARY ELECTRIC MACHINE AND ELECTRIC VEHICLE USING THE SAME

Petitioner, Hitachi, Ltd., is the owner of 100 percent interest in the instant application. Petitioner hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173, as presently shortened by any terminal disclaimer, of prior Patent No. 6,452,302. Petitioner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, petitioner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the fully statutory term as defined in 35 U.S.C. 154 to 156 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims cancelled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its fully statutory term as presently shortened by any terminal disclaimer.

For submissions on behalf of an organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned (whose title is supplied below) is empowered to act on behalf of the organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

3-26-03
Date

Signature

TERMINAL DISCLAIMER
APPROVED

APR 29 2003

SHARON S. HOPPE
PARALEGAL SPECIALIST
TECHNOLOGY CENTER 2800

Jeffrey D. Sanok

Typed or printed name and title if applicable

169
Registration NumberTECHNOLOGY CENTER 2800
SPECIAL PROGRAM CENTER

[X] Terminal disclaimer fee under 37 CFR 1.20(d) included.
[X] PTO suggested wording for terminal disclaimer was

[X] unchanged, [] changed (if changed, an explanation should be supplied).

PTO/SB/26 (10-92)

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T.D. INFORMAL MEMO: DO NOT MAIL THIS MEMO TO APPLICANT

DATE: 01-May-03

APPL. S.N.: 10/091,514

TO: EXAMINER Nguyen, Tran N.

ART UNIT: 2834

FROM: Hoppe, Sharon

PARALEGAL SPECIALIST

RETURN THIS MEMO TO: CP4-6D34

SUBJECT: Decision on Terminal Disclaimer (T.D.) filed: 27-Mar-03

INSTRUCTIONS: I have reviewed the submitted T.D. with the results as set forth below. If you agree, please use the appropriate form paragraphs identified by this informal memo in your next Office action to notify applicant of the T.D. If you disagree or have any questions, please see me or the Special Program Examiner. THIS IS AN INFORMAL, INTERNAL MEMO ONLY. IT MUST NOT BE (1) MAILED TO APPLICANT OR (2) PLACED OF RECORD IN THE APPLICATION FILE. When your action is complete, please initial, date and return this memo to me. THANK YOU.

☒ The T.D. is PROPER and has been recorded (see ¶ 14.23).

☐ The T.D. is NOT PROPER and has not been accepted for the reason(s) checked below (see ¶ 14.24):

☐ The T.D. fee of _____ has not been submitted nor is there any authorization in the application file for the use of a deposit account (see ¶ 14.26.07).

☐ The T.D. does not satisfy Rule 321 in that the person who has signed the T.D. has not stated the extent of his/her interest (and/or the extent of the interest of the business entity represented by the signature) in the application patent (see ¶ ¶ 14.26 & 14.26.01).

☐ The T.D. lacks the enforceable only during common ownership clause -- needed to overcome a non-statutory double patenting rejection, Rule 321(b) (see ¶ 14.27.01).

☐ The T.D. is directed to a particular claim(s), which is not acceptable since "the disclaimer must be for a terminal portion of the term of the entire patent to be granted" (MPEP 1490) (see ¶ ¶ 14.26 & 14.26.02).

☐ The person who signed the T.D.:

☐ is not an attorney "of record" (see ¶ ¶ 14.29 and 14.29.01).

☐ has failed to state his/her capacity to sign for the business entity (see ¶ 14.28).

☐ is not recognized as an officer of the assignee (see ¶ ¶ 14.29 & possible 14.29.02).

☐ No documentary evidence of a chain of title from the original inventor(s) to assignee has been submitted, nor is the reel and frame number specified as to where such evidence is recorded in the Office (see 37 CFR 3.73(b) and 1140 O.G. 72). NOTE: This documentary evidence or the specifying of the reel and frame number may be found in the T.D. or in a separate paper of record in the application (see ¶ 14.30).

☐ The T.D. is not signed (see ¶ ¶ 14.26 & 14.26.03).

☐ The serial number of the application (or the number of the patent) which forms the basis for the double patenting rejection is missing or incorrect (see ¶ 14.32).

☐ The serial number of this application (or the number of the patent in reexam or reissue cases being disclaimed is missing or incorrect (see ¶ ¶ 14.26, 14.27.02 or 14.26.05).

☐ The period disclaimed is incorrect or not specified (see ¶ ¶ 14.26, 14.27.02 or 14.26.03).

☐ Other: _____

☐ Suggestion to request refund (see ¶ 14.36) NOTE: If already authorized, credit refund to deposit account and **do not** check this item

I have appropriately notified applicant(s) of the status of the Terminal Disclaimer filed in this case.

Ex. Initials: _____ Date: _____

Log Date: _____

Special Program Database, Version 2.1

(Rev. 5/98)

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Thursday, May 01, 2003 7:06:23 AM